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10/033,879	12/19/2001	Frank Tucker Smith	00-073-TAP	1291

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/033,879
Filing Date: December 19, 2001
Appellant(s): SMITH ET AL.

MAILED

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GROUP 3600

Betty Formby
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed January 12, 2005 appealing from the Office action mailed August 11, 2004.

Per the order returning the appeal to the examiner of November 8, 2005 the examiners answer mailed on May 9, 2005 is hereby vacated. Below is a copy of the examiners answer mailed on May 9, 2005, no new arguments have been presented, only the formal matters put forth in the remand have been addressed. The reply brief filed on July 7, 2005 as noted in a response on July 18, 2005 is still part of the record and need not be resubmitted by appellant.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,405,114	Priestly et al.	6-2002
US2002/0009512	Faiman et al.	1-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Faiman et al. and further in view of Priestley et al. The admitted prior art teaches a media library comprising:

an enclosure for housing a bi-directional array of media cartridges;

a plurality of picker robots responsive to a control device for retrieving and placing the media cartridges from or to the storage locations;

a plurality of access means to said enclosure.

The admitted prior art does not teach a safety interlock for the door to the enclosure.

Faiman et al. US 2002/0009512 teaches a device with a safety interlock comprising:

- a door (32) covering the moving part of a press machine (19);

- a sensor on said door for detecting if the door is open or closed;

- a control device that operates the device in the following modes:

 - a first mode where the door is closed and the device moves at a first specified speed;

 - a second mode where the door is open and the device moves at a second specified speed that is slower than said first specified speed;

 - wherein the speed reduction is set via a command to a controller or through changes in power to a variable frequency drive motor;

 - wherein the door sensor operates only in said second mode if said door is open. The admitted prior art and Faiman et al. do not teach the second operating speed as being set automatically once the interlock is triggered. Priestly et al. US 6,405,114 teach a device with an interlock system comprising:

 - a drive motor for wheels:

 - interlocks for determining if a boom is in a lowered position or not:

 - whereby if the boom is in the lowered position said device travels at a first speed;

 - whereby if said boom is not in the lowered position said interlocks limit the speed of the device to a second speed that is non-zero and slower than said first speed.

It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the admitted prior art with a safety interlock as taught by Faiman et

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al. in order to keep the operator from being hurt by the device while working in the enclosure and to further automate the speed reduction as taught by Priestly et al. in order to keep an operator from overriding the safety interlocks and operating the device in a dangerous manner.

(10) Response to Argument

The appellant argues that neither the Faiman et al. or the Priestly et al. references do not teach what they are reputed to show. The appellant then argues each reference separately without regard to the admitted prior art. The admitted prior art teaches an automated media library with conventional controls programmed to automatically place and retrieve a pod within a storage array. The controller is also used to avoid collisions between a plurality of picker robots employed by the library. Thus with the idea of automated controls in mind were the references of Faiman et al. or the Priestly et al. added to the admitted prior art which itself has an automated controller. Regarding the assertion that the Faiman et al. reference does not teach the speed being dependent upon the door setting the examiner does not agree with the appellant. Based on tables 1 and 2 supplied by the appellant in the appeals brief Faiman et al. are shown to teach a device that operates in two modes (higher range and slow) when a safety door is closed and only one mode (slow) when the safety door is opened. Thus the reference does show what it is reputed to teach as stated in the final rejection. The interlock taught by Faiman et al. does teach the device as only allowing certain speeds based upon the position of a safety door. Thus the reference is

considered by the examiner to meet the limitations of the claims under appeal as it is applied in the final rejection of claim 1-6.

Regarding the Priestly et al. reference, the appellant is arguing that the reference does not show what it asserted to show. The examiner does not agree with this argument as outlined below. The Priestly et al. reference is used as a teaching of two elements and how they relate to each other. First the two elements are a drive motor for wheels labeled as element (104) is taught by Priestly et al. and the second element an interlock limiting the speed of this drive is also taught by the reference. See Column 8 lines 36-65. The interaction of the two elements is the only source of argument in the instant appeal. Priestly teaches that if the boom is lowered the device can move at high or low speed at the operators demand, but if the boom is not lowered it may only move at the lower speed no matter what command is given. The boom position is determined by an interlock switch. Again refer to the passage cited above. Thus the Priestly reference does teach a device with an interlock that does automatically reduce the speed of the device if certain conditions are not met, i.e. the boom being lowered. As such the examiner stands behind the use of this reference as used in the final rejection of claims 1-6.

In regards to the argument that the examiner used hindsight to construct the rejections, the examiner does not agree. While the examination process must take into account the structure of instant invention and the prior art at the same time the reasons for making the rejections come from either the prior art or the knowledge of one of ordinary skill in the art and the problem being addressed by the instant application.

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While the two references used do not deal with automated library systems they do use interlocks as a means to add a measure of safety to a device that can be considered dangerous to an operator under certain conditions. The admitted prior art teaches that opening the access door to an automated media library is considered dangerous to an operator. Thus one of ordinary skill in the art would seek ways to reduce this dangerous situation by looking to devices designed to add a measure of safety to an operator. Priestly et al. and Faiman et al. both teach the use of interlocks to keep a device from moving at its fastest speed when the device either has a door open or is configured in a predetermined dangerous position. Given this one of ordinary skill in the art would have looked to the Priestly et al. and Faiman et al. references when confronted with the well known problems in the automated media library.

For the above reasons, it is believed that the rejections should be sustained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

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CAF 3-7-06

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